

IN THE UNITED STATES DISTRICT COURT FOR
THE WESTERN DISTRICT OF OKLAHOMA

FILED

SEP 04 2009

TIMOTHY W. CLAY,

Plaintiff,

vs.

STATE OF OKLAHOMA et al.,

Defendants.

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ROBERT D. DENNIS, CLERK
U.S. DIST. COURT, WESTERN DIST. OF OKLA.
BY W.H. DEPUTY

No. CIV-09-370-W

ORDER

On July 30, 2009, United States Magistrate Judge Bana Roberts issued a Report and Recommendation in this matter and recommended that the Court dismiss this action without prejudice to refiling because plaintiff Timothy W. Clay, a prisoner appearing pro se, had failed to comply with an Order issued by Magistrate Judge Roberts on June 29, 2009,¹ had failed to pay the initial partial filing fee in the amount of \$7.23, had failed to request an extension of time in which to pay that amount and had likewise failed to show good cause for his failure to pay. Clay was advised of his right to object to the Report and Recommendation, but he has filed no objections within the allotted time.

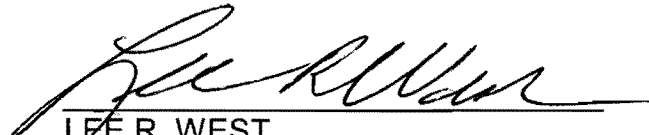
Upon review of the record, the Court concurs with Magistrate Judge Roberts' suggested disposition of this matter. Accordingly, the Court

(1) ADOPTS the Report and Recommendation [Doc. 12] issued on July 30, 2009;
and

¹In her Order, Magistrate Judge Roberts found that Clay was entitled to proceed without prepayment of the full filing fee of \$350.00, but that he was nevertheless required to pay an initial partial filing fee in the amount of \$7.23 and thereafter, required to make monthly payments of twenty percent (20%) of each preceding month's income that was credited to his prison account(s) until he had paid the filing fee in full.

(2) for the reasons set forth in the Report and Recommendation, DISMISSES this matter without prejudice to refiling.

ENTERED this 4th day of September, 2009.


LEE R. WEST
UNITED STATES DISTRICT JUDGE